

Sean David Morton,
565 Pier Avenue, #1274
Hermosa Beach, California Republic
[near PZ# 90274-1274]

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

MAR 24 2017

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

Shari R. Carter, Executive Officer/Clerk
By Irma Preciado, Deputy

**Sean-David: Morton [sic]
CLAIMANT, [a]man,**

Case: **YS029817**

Judge _____

DATE: _____

TIME: _____

PLACE: _____

-v-

**SANDRA BROWN, EILEEN
DECKER, JAMES HUGHES,
VALERIE MAKAWITZ, all
successors & assignees
Defendants and Wrongdoers**

**CLAIM FOR
DECLATORY RELIEF**

CLAIMANT CLAIMS AND FOR CAUSES OF ACTION ALLEGES AS FOLLOWS:

**FIRST CAUSE OF ACTION
(For Trespass Against Wrongdoers)**

CLAIMANT CLAIMS AND FOR CAUSES OF ACTION ALLEGES AS FOLLOWS:

**FIRST CAUSE OF ACTION
(For Trespass Against Wrongdoers)**

Defendant James Hughes at all times herein mentioned was a resident the State of California of the City of Los Angeles , County of Los Angeles, State of California.

Defendant Eileen Decker, at all times herein mentioned was a resident the State of California of the City of Los Angeles , County of Los Angeles, State of California.

Defendant Valerie Makawitz, at all times herein mentioned was a resident the State of California of the City of Los Angeles , County of Los Angeles, State of California.

Defendant Sandra R. Brown at all times herein mentioned was a resident the State of California of the City of Los Angeles, County of Los Angeles, State of California.

Defendant Lawrence S. Middleton at all times herein mentioned was a resident the State of

18096
3231

1 California of the City of Los Angeles, County of Los Angeles, State of California.

2 Claimant, i, [a] man, Sean-David: Morton, is ignorant of the true names and capacities of
3 defendants/wrongdoers, and all their successors and assigns, sued herein, inclusive, and
4 therefore sues these defendants by such fictitious names. Claimant, i, [a] man, Sean-David:
5 Morton will amend this claim to allege their true names and capacities or other Defendants
6 when ascertained.
7

8 FACTS:

9
10 This declaratory judgment is to afford myself being threatened with 650 years in prison an
11 opportunity for adjudication before the adverse party incorrectly moves for a trial when the
12 reality is that a trial should not occur now, and certainly not once this judgment brings the facts
13 to light.

- 14 1. All charges I am being charged with require wrongdoers/defendants to prove a culpable
15 state of mind and this judgment puts that issue to rest, ensuring there is no controversy on
16 that pivotal topic of culpability.
17
18 2. I believe the State Court is the proper venue of general and competent jurisdiction to
19 protect me because the UNITED STATES Federal District Court has a vested interest in
20 prosecuting me.
21
22 3. This is an attempt at checks and balances between State and Federal power and jurisdiction
23 in the interest of justice, as well as a prayer for the court to help me in order to prevent
24 irreparable harm to me.
25
26 4. The Defendants/Wrongdoers pretrial against me is March 27, 2017, with trial set for April
27 4, 2017, and I am very harmed, distressed, and literally in fear of my very life, so I pray
28 this court will give me this judgment in my favor in an expedited manner.

1 5. I am also requesting this State Court STAY all the proceedings in Federal Court until the
2 time this matter is settled in State Court.

3 6. The Defendants/Wrongdoers have conspired to trespass and are causing me extreme harm
4 through their actions of filing false charges against me.

5 7. The Defendants/Wrongdoers created VOID warrants to break into my home, assault my
6 wife and I, kidnap us at gunpoint, and gather information in their illegal search and seizure.

7 8. The Defendants/Wrongdoers are continuing their harassment by sending court biased
8 documents painting me in a false light of culpability, with conjectures, assumptions,
9 presumptions and color of law as their weapons against me.

10 9. It is my wish to stop the trial by proving in this declaratory judgment that the matters are
11 already settled in my favor through the attached administrative processes, notarized that the
12 Defendants/Wrongdoers have defaulted by acquiescence and are estopped, bound to all
13 facts as I presented earlier.

14 10. This declaratory judgment will end multiple controversies, all of which I require to end the
15 controversy in the wrongdoers case against me.

16 An actual controversy has arisen and now exists between Claimant and
17 Defendant/Wrongdoers concerning their respective rights and duties in that Claimant contends:

18 A. Whereas culpability required to convict me was challenged in an **"Affidavit of Non-**
19 **Culpability"** and said affidavit is unchallenged, resulting in estoppel and agreement that i, [a]
20 man, Sean-David, Morton, has, and had a non-culpable state of mind.

21 B. Whereas Defendants/Wrongdoers disputes these contentions and contends the false
22 presumption that they "know" I had a culpable state of mind.

23 Claimant desires a judicial determination of i, [a] man, Sean-David: Morton's rights and
24
25
26
27
28

1 duties, and a declaration as to his "Affidavit of Non-Culpability" standing as truth, and the
2 Defendants/Wrongdoers estopped from now claiming a culpable state of mind.

3 A judicial declaration is necessary and appropriate at this time under the circumstances in
4 order that Claimant may ascertain both his own rights and duties as well as prove the
5 wrongdoers duties to not prosecute, since they are ignoring my lawful estoppel & non-
6 culpability. (emotional distress and financial, time burdens of preparing for a court case that
7 was supposed to be settled by my affidavit months ago is resulting in me now being harmed by
8 unsettled state of affairs)
9

10
11 **CLAIMANT ALLEGES DETRIMENT AND EXTREME HARM**
12

13 Claimant did exhaust administrative remedies, that is in fact what this affidavit is, an
14 administrative remedy by matters *in pais*. The problem is and why I require a judgment to my
15 affidavit's validity is that the wrongdoers are ignoring the meaning of my paperwork being
16 uncontested. It means they cannot convict me, because it is uncontested that I had no
17 culpability. I am in great distress over having no judgment to stand on showing my status as
18 non-culpable, I am distressed because Defendants/Wrongdoers are barreling forward
19 completely ignoring this lawful administrative remedy affidavit, presumably because they want
20 me to be prosecuted despite my solid evidence of non-culpability. I did exhaust all
21 administrative remedies prior to this declaratory judgment, I simply need the proof that the
22 facts are now bound and the Defendants/Wrongdoers are estopped from dragging this on
23 needlessly.
24

25 I believe Defendants/Wrongdoers and this honorable court are bound by the well-settled
26 laws of default by tacit acquiescence, and estoppel by silence because I rely on this silence to
27 now require this court to provide me proof of estoppel in this declaratory judgment.
28

1 Also applicable to justify the relief I require:

2 UCc law of "NOTICE AND RIGHT TO DEFEND", which I used in the affidavit requiring this
3 judgment.

4 § 3-119. NOTICE OF RIGHT TO DEFEND ACTION.

5 *In an action for breach of an obligation for which a third person is answerable over*
6 *pursuant to this Article or Article 4, the defendant may give the third person notice of the*
7 *litigation in a record, and the person notified may then give similar notice to any other*
8 *person who is answerable over. If the notice states (i) that the person notified may come in*
9 *and defend and (ii) that failure to do so will bind the person notified in an action later*
10 *brought by the person giving the notice as to any determination of fact common to the two*
11 *litigations, the person notified is so bound unless after seasonable receipt of the notice the*
12 *person notified does come in and defend.*
13
14

15
16 WHEREFORE, Claimant, i, [a] man Sean-David: Morton, do now pray for an estoppel
17 judgment against Defendants/Wrongdoers Brown, Hughes, Makawitz, Decker, unknown
18 agents and their principles, and all successors and assigns, each of them, as follows:

19 For a declaration that the undisputed contents in the administrative remedy, "affidavit of
20 non culpable state of mind" is true, uncontested, resulting in default by acquiescence, I require
21 wrongdoers are estopped from further questioning or dragging out what is now determined as
22 truth of Claimants status of non-culpable state of mind.
23

24 For this honorable California State court to STAY the case against me in the Federal US
25 District Court until the time this matter is settled, if the State Court's decision is not immediate

26 For this honorable State court to EXPEDITE the judgment to end the controversy in the
27 Federal proceeding against me, and;
28

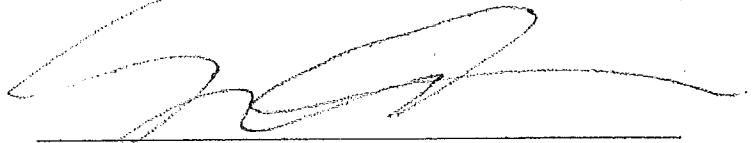
◇. For a declaration that the undisputed contents in the administrative remedy, "affidavit questionnaire" stands as true, uncontested, resulted in default by acquiescence; I require wrongdoers are estopped from further challenging the facts in the affidavit that they are bound to or dragging out what is already determined as truth of ^{claimants} ~~plaintiffs~~ status of non culpable state of mind as well as wrongdoers status of malice, fraud and all undisputed points contained in the affidavit questionnaire.

◇. For State court to STAY the case against me in Federal Court until the time this matter is settled, if the State Courts decision is not immediate

◇. For State court to EXPEDITE the judgment to end the controversy in the Federal proceeding against me

◇. For such other and further relief as the court deems proper.

DATED: 3/22/17



(Signature)

i, [a] man, Sean-David:

All Rights Reserved UCc 1-308

For such other and further relief as the court deems proper.

DATED:

March 24/2017

(Signature)

[Signature]
All Rights Reserved
UCC-1-308

VERIFICATION

i, [a] man, Sean-David: Morton, am the injured Claimant in the above-entitled action. I have personally written the foregoing and know the contents thereof are true based on my own firsthand knowledge.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at, Hermosa Beach, California.

DATED:

March 24, 2017

SIGNED:

[Signature]
★ All Rights Reserved

SEAL:

UCC-1-308 Sean: David



Page 7

EXHIBIT 1

ATTACHMENT

Sean David Morton,
565 Pier Avenue, #1274
Hermosa Beach, California 90274-1274

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA
Plaintiff

-v-

SEAN DAVID MORTON

Case #s: [15-00611(A)], [CR
15 611(A)] and [15-1762M]

PROOF OF SERVICE

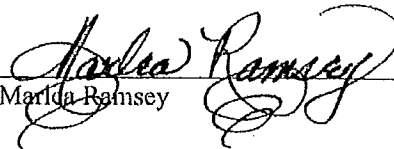
I declare that I am a resident of Los Angeles County, California. I am over the age of eighteen years. On July 25, 2016, I served the following documents:

1. Certified Affidavit of Truth
2. Notice: Culpable State of Mind Must Be Proved
3. False Claim Letter
4. Proof of Service.

by placing a true copy enclosed in a sealed envelope with postage thereon fully paid, in the United State mail addressed as follows:

James C. Hughes 300 N Los Angeles Street, 5 th Floor Los Angeles, CA 90012	
---	--

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on July 25, 2016, .


Marisa Ramsey

Proof of Service

EXHIBIT 1

Notice of Dishonor UCc 3-503, 3-504, 3-505

July 25, 2016

James C. Hughes
USDOJ/AUSA
300 N. Los Angeles Street, 5th Floor
Los Angeles, CA, 90012

Re: False Claims # [15-00611(A)], [CR 15 611(A)] and [15-1762M]

Dear Honorable Mr. Hughes,

I require your prompt attention to the matter of a false claim you have filed against SEAN DAVID MORTON.

1. I believe you are the man with the claim against me.
2. I believe the claim you have brought against me is a false claim.
3. You are the man responsible for bringing the false claim that is directly harming me, another man.
4. You made the overture of a commercial offer to resolve the false claim you are bringing against me "before it comes to trial".
5. Since you are making this commercial offer to settle, I must assume that it is you who is claiming to also be the man bringing the false claim against me.
6. You and all parties acting in concert with you appear to have me confused with SEAN DAVID MORTON.
7. For the record, I am not SEAN DAVID MORTON.
8. I am Sean-David, Morton who is also known as sean :-: david, the common law agent representative for SEAN DAVID MORTON.
9. You are falsely accusing i: a man, Sean-David, Morton for the alleged crimes of a different entity, SEAN DAVID MORTON.
10. The Constitution grants Federal Courts only 2 different criminal jurisdictions as you know or should have known.
11. One criminal jurisdiction the court has authority to act in is common law for cases and controversies over \$20.
12. The other criminal jurisdiction in which the court may operate is under Article 1, section 8, clause 17 which is a military tribunal in admiralty or maritime.
13. I am just curious, in what jurisdiction exactly is the claim you brought against me?
14. I require knowing the jurisdiction of your claim against me.

Notice of Dishonor UCc 3-503, 3-504, 3-505

15. You have a duty to inform me of the jurisdiction and it must be on the record.
16. This is a Common Law land (Law of the Land is Common Law).
17. If the claim is in a Common Law jurisdiction it is false because there is no injured party here. Ms. Makarewicz has referred to my "victims". Who are they and how do you represent them?
18. If the claim is in Admiralty Jurisdiction it is false because there is no international contract in dispute.
19. You are claiming I harmed someone.
20. I have never harmed you.
21. You are bringing the claim on behalf of the US, the United States, THE UNITED STATES and/or THE UNITED STATES OF AMERICA, and I have never personally met or harmed any of them either.
22. The "victim" keeps morphing and has a variety of names in your filed paperwork which alludes to a fictional injured party you are bringing the claim for.
23. You know, or should have known, of the Doctrine of Standing that requires a distinct and palpable injury as opposed to a hypothetical and conjectured injury with a causal connection between the claimed injury and the challenged conduct.
24. Standing is a requirement for a valid claim, therefore your claim against me is false for lack of standing.
25. No one has first hand knowledge of any injury and how I caused it.
26. No one has firsthand knowledge that I had a culpable state of mind.
27. You are presenting false assumptions and presumptions as if they are fact saying I had a culpable state of mind.
28. I deny I ever had a culpable state of mind.
29. Attached is a Certified Affidavit of Non-Culpability of which you need to disprove in its entirety before you can convict me.
30. I require a proper response from you in 21 days or less with evidence presented under oath & penalty of perjury to the attached Certified Affidavit of Non-Culpability point by point if you wish to dispute my Certified Affidavit of Non-Culpability.
31. I require the ability to exercise my God-given and constitutionally protected right to confront my accuser face to face.
32. You are the accuser who is accusing me of some type of harm you allege I have caused.
33. The Plaintiff cannot take the stand, obviously, as the US, under whatever *nomme de guerre* you are using is millions of people and a corporate fiction at the same time, so in the false claim you brought I cannot confront my accuser face to face.

Notice of Dishonor UCc 3-503, 3-504, 3-505

34. I OBJECT to this whole Star Chamber style proceeding as it is patently an unfair trial, with the judge, my wife's defense attorney and yourself all being paid by the plaintiff.
35. I OBJECT to yourself or any other 3rd party interloper testifying on the record as you have no firsthand knowledge of events and your testimony is all unequivocal hearsay.
36. I OBJECT to your false claim because it is harming me and unlawful.
37. If I am forced to bring my claim against you I shall charge you, James C. Hughes, the more than reasonable fees of \$1000 per a day, plus treble damages, for every day since you signed the false claim against me to compensate me for the stress of facing public slander and libel, armed home invasion, physical arrest and incarceration, and a lifetime in false incarceration from your trespass and other harm you are causing me.
38. If you force me to bring my claim against you I shall also charge you for the warrant, which is void on its face for having zero probable cause.
39. I shall also charge you \$1000 per day for the illegal possession of my private property.
40. You and your partners were so much lacking "probable cause" that you had to cross out the line "based on the foregoing" (probable cause) and instead said "T he items to be seized..."
41. I OBJECT and dishonor your fraudulent charging instrument warrant.
42. I OBJECT to and have dishonored the "true bill" and the entire proceeding, as it is fraudulent.
43. You are partners with the woman Valerie Makarewicz, who I heard lie in open court and tell Judge Wilson I presented false "checks" to the "government" which I am informing you is entirely untrue.
44. You have no evidence to support your false accusation that I presented any kind of false "check" to anyone.
45. You are the man that has claimed lawful federal "liens and levies" have been filed against me, and yet there is no evidence of this.
46. You are partners with the woman that claimed in open court that no evidence you have unlawfully collected from my computers can be used against me, as you have altered the data in those computers "just by turning them on"; your partner Valerie's words exactly.
47. Any evidence you did obtain is inadmissible and collected unlawfully from a warrant not valid on its face.
48. You are the man who has shown unclean hands and bad faith by ordering a terrifying illegal search with guns based on your false warrant with no probable cause.

Notice of Dishonor UCc 3-503, 3-504, 3-505

49. You are the man who has shown unclean hands and bad faith by allowing your partner Valerie Makwarewicz to lie in open court in order to bring a false claim against me.

50. I bring these valid points to your attention in good faith with clean hands.

As a "PRE-TRIAL RESOLUTION" according to your generous commercial offer:

**I am formally demanding you drop
your false claim against me immediately.**

If you continue to bring this false claim against me I shall be forced to file a real verified claim against you, the man, who is harming me and trespassing upon me in a court of record.

I require a proper response in 21 days or less with evidence presented under oath and penalty of perjury to the foregoing issues #1-50, point by point, if you wish to dispute my foregoing claims.

If you wish to dispute my claims or Certified Affidavit of Non-Culpability all of your proper responses must be mailed to the following public notary, my third party witness with judicial authority to certify your responses or lack of response and agreement, within 21 days:

**Marlea Ramsey
PO BOX 6333
Torrance CA 90504**

Failure of you to dispute my claims properly point by point will result in you agreeing that your claim against me is false and that my fees are reasonable to charge you with. I will then immediately file a verified complaint against you for trespass and filing false claims against i: a man, who has harmed nobody.

But who wants to go to war when peace is so much easier?

Now, I prefer you to simply drop the false claim based on the foregoing valid reasons that prove your claim's lack of validity. I am certain you will do the right and reasonable thing and drop this false claim now that I have brought these fundamental issues to your attention. I mean did you not go through 3 Grand Juries, and 12 judges who told you this case was "Deficient" for the longest time? I believe that it is!

Notice of Dishonor UCc 3-503, 3-504, 3-505

I am an aggrieved man who requires remedy to this matter because your false claim affects my substantive rights.

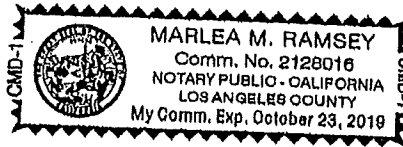
I affirm under penalty of perjury the foregoing is true and correct according to US laws, law of the land.

Date:

Signed: Sean David Morton UCc-1-308 without prejudice,
Sean David Morton, sean: - : david, agent

Allowing NOTARY AS A COMPELLED BENEFIT.

State of California County of
Los Angeles
Subscribed and sworn to (or affirmed)
before me on this 25th day of July, 2016, by
SEAN DAVID MORTON
proved to me on the basis of satisfactory evidence
to be the person(s) who appeared before me.
Signature Marlea M. Ramsey



CERTIFIED AFFIDAVIT OF TRUTH
Of Non-Culpable State Of Mind
Rule 902; "Self Authenticating Evidence"

1. I, Sean David Morton, affirm I am an honorable man who has firsthand knowledge of all the facts I claim herein.
2. I am the only one in the world who can truly know what I feel or think.
3. At NO TIME, EVER, have I willingly or knowingly committed a crime, caused loss, harm or fraud.
4. I was under the supervision of Mr. Brandon Adams and his father, who was a licensed CPA to do the paperwork and all IRS filings were at their advice and prepared by them.
5. In no way did I ever file anything that I thought was unlawful or incorrect, and all IRS paperwork filed was readily available to the public at large at that time on programs like TURBO-TAX.
6. In fact my filings were vetted and audited, where the Fresno, Austin and Philadelphia IRS offices all agreed with my assessments, and even added money to the returns.
7. I have sent copious amounts of correspondence to the IRS in an attempt to explain exactly why I believe all my actions were lawful and to negotiate with them in good faith and solve this matter administratively, all of which have been ignored!
8. My intentions were expressly not to interfere with the administration of the income tax laws.
9. I have never sent a "CHECK" fraudulent or otherwise to the IRS or any "Government" agency.
10. The Plaintiff's agent testified before the honorable Judge Wilson that the IRS has never responded to my attempts to negotiate or my attempts to explain my honorable state of mind.
11. I affirm I acted and am acting in good faith.
12. I affirm I have "clean hands".
13. The Plaintiff is assuming facts not in evidence about my having a culpable state of mind and I object because it is baseless and untrue.
14. I strongly object to the lies and allegations in the indictment that I conspired and agreed to defraud the US through the IRS by deceitful means.
15. The Plaintiff has simply made up out of thin air many assumptions and has presented them as if they were factual, which is totally and utterly unacceptable to me.
16. It should be considered libel per se because the Plaintiff never said "in my opinion"; instead assumptions of my having criminal intent is presented on a

1

Rule 902 Self authenticating evidence

Regarding case #s: [15-00611(A)], [CR 15 611(A)] and [15-1762M]
Certified Affidavit of Truth of Non-Culpable State Of Mind

EXHIBIT 1

public record, and in various libelous press releases, as if it is true about my being dishonorable and committing crimes knowingly and willingly.

17. I do object to all statements by Plaintiff that attempt to portray me as having criminal intent.
18. I am not in receipt of any evidence or firsthand testimony by the Plaintiff under oath and penalty of perjury that disproves my non-culpable state of mind.
19. He who affirms has the burden of proof, not he who denies. I absolutely deny having a culpable state of mind and it is true.
20. According to the DOJ, concerning the charges against me, (laws of the DOJ are attached as a notice) "the government must prove beyond a reasonable doubt that I willfully associated myself in some way with the criminal venture".
21. For the record I deny ever having willfully associated myself with any criminal venture.
22. I truly believed all my actions were lawful.
23. The burden of proof is on the Plaintiff to disprove my truth because it is the Plaintiff who is affirming the false presumption and assumption that I had intent to commit a crime, defraud, interfere with government functions and otherwise have a culpable state of mind.
24. This affidavit is self-executing in the event of anyone challenging my non-culpable state of mind, and it is considered admissible evidence under Rule 902 of my non-culpable state of mind in this matter.
25. Truth is truth! My truth claimed herein is far superior to nothing more than hypothetical conjectures, assumptions, presumptions and wild guesses about me that the Plaintiff is attempting to pursue and assert.
26. I am the only one in this whole matter with any first hand knowledge of my non-culpable intent and what I have said in this affidavit is the truth, the whole truth and nothing but the truth, so help me God.
27. Showing no bad faith in negotiations, and with clean hands, I do, and I have, dishonored the presentments and this entire proceeding. [DISHONOR FILED WITH US DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA on JULY 8, 2016. No response has been received].

NOTICE OF DISHONOR 3-503 - Because Plaintiff has not provided proof or reasons not consistent with dishonor for saying as if it were fact that I had criminal intent, and because the Plaintiff has shown bad faith in negotiations I do dishonor the presentments of this entire proceeding.

Now, I prefer the agents for "Plaintiff" simply drop the false claim based on the foregoing valid reasons that prove your claims lack of validity. I am certain you will do the right and reasonable thing and drop this false claim now that I have brought these fundamental issues to your attention. I mean did the Plaintiff's agents not go

2

Rule 902 Self authenticating evidence

Regarding case #s: [15-00611(A)], [CR 15 611(A)] and [15-1762M]
Certified Affidavit of Truth of Non-Culpable State Of Mind

EXHIBIT 1

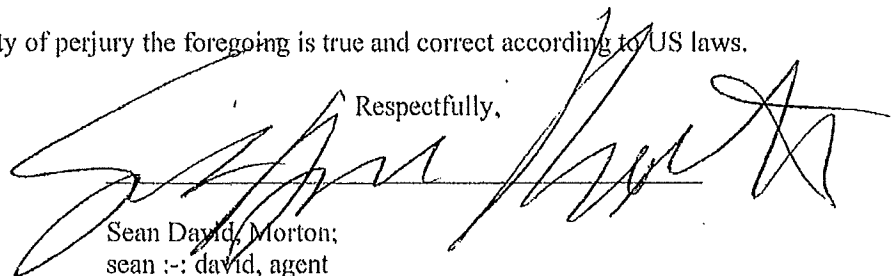
through 3 Grand Juries, and 12 judges who told them this case was "Deficient" for the longest time? I believe that it is!

I am an aggrieved man who requires remedy to this matter because your false claim affects my substantive rights.

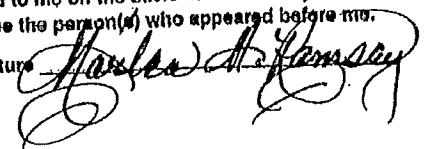
I affirm under penalty of perjury the foregoing is true and correct according to US laws, law of the land.

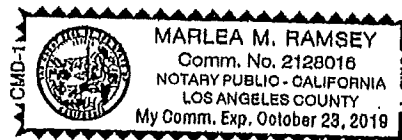
I affirm under penalty of perjury the foregoing is true and correct according to US laws.

Respectfully,



Sean David Morton;
sean :-: david, agent
UCc 1-308 without prejudice – a man –
Allowing Notary as a Compelled Benefit

State of California County of
Los Angeles
Subscribed and sworn to (or affirmed)
before me on this 25th day of July, 2016, by
SEAN DAVID MORTON
proved to me on the basis of satisfactory evidence
to be the person(s) who appeared before me.
Signature 



3

Rule 902 Self authenticating evidence

Regarding case #: [15-00611(A)], [CR 15 611(A)] and [15-1762M]
Certified Affidavit of Truth of Non-Culpable State Of Mind

EXHIBIT 1

NOTICE:
CULPABLE STATE OF MIND MUST BE PROVED:

- Notice: He who affirms has the burden of proof, not he who denies.
- Notice: TITLE 18 of the UNITED STATES CODE was NEVER promulgated into positive law. The Congress and the Senate of the United States was not even in session on the date Title 18 was passed. [Congressional Record of the US Congress.]

DOJ NOTICE - 2476. 18 U.S.C. § 2 Is Not An Independent Offense

While aiding and abetting might commonly be thought of as an offense in itself, it is not an independent crime under 18 U.S.C. § 2. That statute provides no penalty, and only abolishes the distinction between common law notions of "principal" and "accessory." *United States v. Kegler*, 724 F.2d 190, 200 (D.C. Cir. 1983). Under it, the acts of the perpetrator become the acts of the aider and abettor and the latter can be charged with having done the acts himself. *Id.* at 200-01. An individual may be indicted as a principal for commission of a substantive crime and convicted by proof showing him to be an aider and abettor. *Id.* The indictment need not specifically charge a violation of 18 U.S.C. § 2. *Id.* An aiding and abetting instruction may be given in a case where the indictment does not allege violation of the aiding and abetting statute. *Id.* An aider and abettor of a crime may be tried and convicted even though the principal is not tried, convicted or identified. *Id.*

2475. Intent

The intent requirement for aiding and abetting has been described in different ways. **One court has ruled that it must be shown the defendant intentionally became involved in the substantive crime.** *United States v. Perry*, 643 F.2d 38, 46 (2d Cir.), *cert. denied*, 454 U.S. 835, 102 S.Ct. 138, 70 L.Ed.2d 115 (1981). Another court has stated **the government must prove beyond a reasonable doubt the defendant wilfully associated himself in some way with the criminal venture.** *United States v. Indelicato*, 611 F.2d 376, 385 (1st Cir. 1979). Another has said the charge of aiding and abetting **requires proof that the defendant had a purposeful attitude.** *United States v. Crow Dog*, 532 F.2d 1182, 195 (8th Cir. 1976), *cert. denied*, 430 U.S. 929, 97 S.Ct. 1547, 51 L.Ed.2d 772 (1977).

According to the Ninth Circuit Court, the state of mind required for conviction as an aider and abettor is the state of mind required for the statutory offense. *United States v. Valencia*, 907 F.2d 671, 677 (9th Cir. 1990). However, the District of Columbia has ruled that an aider and abettor need not have the exact same intent as the principal, and the finding of overlapping intent between the accomplice and principal is sufficient

to establish liability. *United States v. Washington*, 106 F.3d 983, 1004 n.32 (D.C. Cir.), *petition for cert. filed*, (July 29, 1997) (No. 97-5423). Similarly, the Fifth Circuit states that the essence of aiding and abetting is the community of unlawful intent between the aider and abettor and the principal. *United States v. Murray*, 988 F.2d 518, 522 (5th Cir. 1993). Although the aider and abettor need not know the means by which the crime is carried out, he must share in the requisite intent. *Id.* In order to show shared intent, the government must present evidence that the accomplice had knowledge he was furthering the crime. *United States v. Loder*, 23 F.3d 586, 591 (1st Cir. 1994). The term "shared intent," similar to "community of unlawful intent," means that the accomplice associated with a criminal venture and sought by his action to make the venture succeed. *United States v. Parekh*, 926 F.2d 402, 407 n.9 (5th Cir. 1991).

All courts seem to agree that aiding and abetting requires specific intent, also described as "purposive attitude." *United States v. Kelton*, 446 F.2d 669, 671 (8th Cir. 1971). [updated October 1998]

18 USC 287 - Whoever makes or presents to any person or officer in the civil, military, or naval service of the United States, or to any department or agency thereof, any claim upon or against the United States, or any department or agency thereof, **knowing such claim to be false, fictitious, or fraudulent**, shall be imprisoned not more than five years and shall be subject to a fine in the amount provided in this title.

922. Elements of 18 U.S.C. § 287

Under 18 U.S.C. § 287, the government must establish that the defendant:

1. Made or presented a false, fictitious, or fraudulent claim to a **department** of the United States;
2. Knew such claim was false, fictitious or fraudulent; and
3. Did so with the specific intent to violate the law or with a consciousness that what he was doing was wrong.

United States v. Slocum, 708 F.2d 587, 596 (11th Cir. 1983)(citing *United States v. Computer Sciences Corp.*, 511 F. Supp. 1125, 1134 (E.D. Va. 1981), *rev'd on other grounds*, 689 F.2d 1181 (4th Cir. 1982)).

Under Section 287, unlike 18 U.S.C. § 1001, there may not be a requirement that the statements or claims be material; the United States Courts of Appeals are split on the issue. *United States v. Parsons*, 967 F.2d 452, 455 (10th Cir. 1992)(no materiality component); *United States v. Elkin*, 731 F.2d 1005, 1009 (2d Cir.), *cert. denied*, 469 U.S. 822 (1984)(same); *United States v. Pruitt*, 702 F.2d 152, 155 (8th Cir. 1983) (materiality component); *United States v. Snider*, 502 F.2d 645, 652 n.12 (4th Cir. 1974) (same). The conflict was noted in *United States v. White*, 27 F.3d 1531, 1535 (11th Cir. 1994), which

did not resolve the issue. Presumably, if a materiality component exists, it is a matter for jury resolution in light of *United States v. Gaudin*, 115 S.Ct. 2310 (1995).

Although it is clear from the case law that specific intent to defraud is not required for a conviction under 18 U.S.C. § 287, the United States Courts of Appeals are divided on the issue of whether willfulness is an essential element of the crime. For example, the United States Courts of Appeals for the Tenth, Fifth and Second Circuits have held that willfulness is not an essential element of Section 287, while the Ninth, Eighth and Fourth Circuits find that willfulness is an essential element of Section 287.

Presentation of a claim is more than an intention to make a claim. The claim must be presented actually and physically, and thereby made to the **government**. The clearest case is presentation directly to the government; however, the claim may go through an intermediary. *United States v. Murph*, 707 F.2d 895, 896 (6th Cir.) *cert. denied*, 464 U.S. 844 (1983); (court rejected the argument that defendant did not cause a violation of Section 287 because the claim was submitted by an intermediary; the defendant sold a tax return, falsely claiming a refund, to the intermediary and knew that the return would be presented to the government to claim the refund). Presenting or cashing a refund check constitutes making a false claim on the United States. *See United States v. Branker*, 395 F.2d 881 (2d Cir. 1968), *cert. denied*, 393 U.S. 1029 (1969). Although Section 287 does not define the term "claim" (*United States v. Barsanti*, 943 F.2d 428, 432-33 (4th Cir. 1991), *cert. denied*, 503 U.S. 936 (1992)), in *United States v. Cohn*, 270 U.S. 339 (1926), the United States Supreme Court wrote:

While the word "claim" may sometimes be used in the broad juridical sense of "a demand of some matter as of right made by one person upon another, to do or to forbear to do some act or thing as a matter of duty," it is clear, in the light of the entire context, that in the present statute, the provision relating to the payment or approval of a "claim upon or against" the government relates solely to the payment or approval of a claim for money or property to which a right is asserted against the government, based upon the government's own liability to the claimant. 270 U.S. at 345-36. The civil component of the False Claims Act, 31 U.S.C. § 3729(c), also defines the word "claim."

[cited in USAM 9-42.001]

18 U.S. Code § 514 - Fictitious obligations

(a) Whoever, **with the intent to defraud**—

(1) draws, prints, processes, produces, publishes, or otherwise makes, or attempts or causes the same, within the United States;

(2) passes, utters, presents, offers, brokers, issues, sells, or attempts or causes the same, or with like intent possesses, within the United States; or

(3) utilizes interstate or foreign commerce, including the use of the mails or wire, radio, or other electronic communication, to transmit, transport, ship, move, transfer, or attempts or causes the same, to, from, or through the United States, any false or fictitious instrument, document, or other item appearing, representing, purporting, or contriving through scheme or artifice, to be an actual security or other financial instrument issued under the authority of the United States, a foreign government, a State or other political subdivision of the United States, or an organization, shall be guilty of a class B felony.

(b) For purposes of this section, any term used in this section that is defined in section 513(c) has the same meaning given such term in section 513(c).

(c) The United States Secret Service, in addition to any other agency having such authority, shall have authority to investigate offenses under this section.

(Added Pub. L. 104-208, div. A, title I, § 101(f) [title VI, § 648(b)(1)], title II, § 2603(b)(1), Sept. 30, 1996, 110 Stat. 3009-314, 3009-367, 3009-470.)

However the Secret Service codebook states clearly that any "false or fraudulent" presentment must be dishonored and returned to sender in 30 days or less.

Sean David Morton,
565 Pier Avenue, #1274
Hermosa Beach, California 90274-1274

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA
Plaintiff

-v-

SEAN DAVID MORTON

Case #s: [15-00611(A)], [CR
15 611(A)] and [15-1762M]

PROOF OF SERVICE

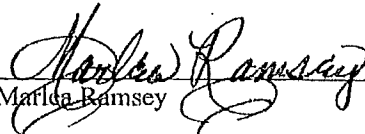
I declare that I am a resident of Los Angeles County, California. I am over the age of eighteen years. On July 25, 2016, I served the following documents:

1. Certified Affidavit of Truth
2. Notice: Culpable State of Mind Must Be Proved
3. False Claim Letter
4. Proof of Service.

by placing a true copy enclosed in a sealed envelope with postage thereon fully paid, in the United State mail addressed as follows:

V. Makarewicz 300 N Los Angeles Street, 5 th Floor Los Angeles, CA 90012	
---	--

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on July 25, 2016, .


Marisa Ramsey

Proof of Service

EXHIBIT 1

July 25, 2016

Valerie Makarewicz
USDOJ/AUSA
300 N. Los Angeles Street, 5th Floor
Los Angeles, CA, 90012

Re: False Claims # [15-00611(A)], [CR 15 611(A)] and [15-1762M]

Dear Ms. Makarewicz,

I require your prompt attention to the matter of a false claim you have filed against SEAN DAVID MORTON.

1. I believe you are the woman with the claim against me.
2. I believe the claim you have brought against me is a false claim.
3. You are the woman responsible for bringing the false claim that is directly harming me, another man.
4. Your partner James C. Hughes, made the overture of a commercial offer to resolve the false claim you are bringing against me "before it comes to trial".
5. Since it is your partner on his own making this commercial offer to settle, I must assume that it is you who is claiming to also be the woman bringing the false claim against me.
6. Since it is your partner on his own making this commercial offer to settle, and it is you standing up in court to speak and make unsubstantiated false claims against me, then I must assume that it is you who is claiming to also be the woman bringing the false claim against me.
7. You, and all parties acting in concert with you appear, to have me confused with SEAN DAVID MORTON.
8. For the record, I am not SEAN DAVID MORTON.
9. I am Sean-David: Morton, who is also known as sean :-: david, the common law agent representative for SEAN DAVID MORTON.
10. You are falsely accusing i: a man, Sean-David: Morton for the alleged crimes of a different entity, SEAN DAVID MORTON.
11. The Constitution grants Federal Court only 2 different criminal Jurisdictions as you know or should have known.
12. One criminal jurisdiction the court has authority to act in is common law for cases and controversies over \$20.

Notice of Dishonor UCc 3-503, 3-504, 3-505

EXHIBIT 1

13. The other criminal jurisdiction in which the court may operate is under Article 1, Section 8, Clause 17 which is a military tribunal in admiralty or maritime.
14. I am just curious, in what jurisdiction exactly is the claim you brought against me?
15. I require knowing the jurisdiction of your claim against me.
16. You have a duty to inform me of the jurisdiction, as it must be on the record.
17. This is a Common Law land (Law of the Land is Common Law).
18. If the claim is in a Common Law jurisdiction it is false because there is no injured party here. You have referred to my "victims". Who are they and how do you represent them?
19. If the claim is in Admiralty Jurisdiction it is false because there is no international contract in dispute.
20. You are claiming I harmed someone.
21. I have never harmed you.
22. You are bringing the claim on behalf of the US, the United States, THE UNITED STATES and/or THE UNITED STATES OF AMERICA, and I have never personally met or harmed any of them either.
23. The "victim" keeps morphing and has a variety of names in your filed paperwork which alludes to a fictional injured party you are bringing the claim for.
24. You know, or should have known, of the Doctrine of Standing that requires a distinct and palpable injury as opposed to a hypothetical and conjectured injury with a causal connection between the claimed injury and the challenged conduct.
25. Standing is a requirement for a valid claim, therefore your claim against me is false for lack of standing.
26. No one has first hand knowledge of any injury and how I caused it.
27. No one has firsthand knowledge that I had a culpable state of mind.
28. You are presenting false assumptions and presumptions as if they are fact saying I had a culpable state of mind.
29. I deny and solemnly swear, I ever had a culpable state of mind.
30. Attached is a certified affidavit of non-culpability which you need to disprove before you can convict me.
31. I require a proper response from you in 21 days or less with evidence presented under oath & penalty of perjury to the attached affidavit of non-culpability point by point if you wish to dispute my Certified Affidavit of Non-Culpability.
32. I require the ability to exercise my right to confront my accuser face to face.

Notice of Dishonor UCc 3-503, 3-504, 3-505

33. You are the accuser who is accusing me of some type of harm you allege I have caused.
34. The Plaintiff cannot take the stand, obviously, as the US, under whatever *nomme de guerre* you are using for it, is millions of people and a corporate fiction at the same time, so in the false claim you brought I cannot assert my constitutional right to confront my accuser face to face.
35. I OBJECT to the whole proceeding as it is patently an unfair trial and a Star Chamber, with the judge, and yourself all being paid by the Plaintiff.
36. I OBJECT to yourself or any other 3rd party interloper testifying on the record as you have no firsthand knowledge of events and your testimony is hearsay.
37. I OBJECT to your false claim because it is harming me and unlawful.
38. If I am forced to bring my claim against you I shall charge you, Valerie Makarewicz, the reasonable fees of \$1000 per day, plus treble damages, for every day since you signed the false claim against me to compensate me for the stress of facing slander, public libel, a lifetime in false incarceration from your trespass and other harm you are causing me.
39. If you force me to bring my claim against you I shall also charge you for the warrant, which is void on its face for having zero probable cause.
40. I shall also charge you \$1000 per day for the illegal possession of my private property.
41. You and your partners were so much lacking "probable cause" that you had to cross out the line "based on the foregoing" (probable cause) and instead said "T he items to be seized..."
42. I object and dishonor your fraudulent charging instrument warrant.
43. I object to and have dishonored the "true bill" and the entire proceeding, as it is fraudulent.
44. You are the woman I, and others, heard lie in open court and tell Judge Wilson I presented false "checks" to the "government" which is entirely untrue.
45. You have no evidence to support your false accusation that I presented any kind of false check.
46. You are the woman that has claimed lawful federal liens have been filed against me, and yet there is no evidence of this.
47. You are the woman that claimed in open court that no evidence you have unlawfully collected from my computers can be used against me, as you have altered the data in those computers "just by turning them on"; your words exactly.
48. Any evidence you did obtain from the armed raid on my home and the assault and battery of my wife, is inadmissible and collected unlawfully from a warrant not valid on its face.

Notice of Dishonor UCc 3-503, 3-504, 3-505

49. You are the woman who has shown unclean hands and bad faith by ordering a terrifying illegal search and seizure, the assault and battery of my crippled wife, with guns based on your false warrant with no probable cause.
50. You are the woman who has shown unclean hands and bad faith by lying in open court in order to bring a false claim against me.
51. I bring these valid points to your attention in good faith with clean hands.

As a "PRE-TRIAL RESOLUTION" according to your "partner" James C. Hughes generous commercial offer:

**I am formally demanding you drop
your false claim against me immediately.**

If you continue to bring this false claim against me I shall be forced to file a real verified claim against you, the woman, who is harming me and trespassing upon me in a court of record.

I require a proper response in 21 days or less with evidence presented under oath and penalty of perjury to the foregoing issues #1 through 51, point by point, if you wish to dispute my foregoing claims.

If you wish to dispute my claims or Certified Affidavit of Non-Culpability all of your proper responses must be mailed to the following public notary, my third party witness with judicial authority to certify your responses or lack of response and agreement, within 21 days:

**Marlea Ramsey
PUBLIC NOTARY
PO BOX 6333
Torrance CA 90504**

Failure by you to dispute my claims properly point by point #1 through #51 will result in you kindly and considerately agreeing that your claim against me is false and that my fees are reasonable, equitable and fair to charge you with. I will then immediately file a verified complaint against you for trespass and filing false claims against i: a man, who has harmed nobody and whose mission is to bring peace to all.

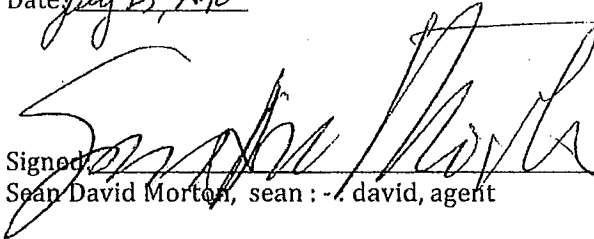
Notice of Dishonor UCc 3-503, 3-504, 3-505

Now, I prefer you to simply drop the false claim based on the foregoing valid reasons that prove your claims lack of validity. I am certain you will do the right and reasonable thing and drop this false claim now that I have brought these fundamental issues to your attention. I mean did you not go through 3 Grand Juries, and 12 judges who told you this case was "Deficient" for the longest time? I believe that it is!


I am an aggrieved man who requires remedy to this matter because your false claim affects my substantive rights.

I affirm under penalty of perjury the foregoing is true and correct according to US laws, law of the land.

Date July 25, 2016

Signed  UCc-1-308 without prejudice,
Sean David Morton, sean : -. david, agent

Allowing NOTARY AS A COMPELLED BENEFIT.

State of California County of
LOS ANGELES
Subscribed and sworn to (or affirmed)
before me on this 25th day of JULY, 2016, by
SEAN DAVID MORTON
proved to me on the basis of satisfactory evidence
to be the person(s) who appeared before me.
Signature 



Notice of Dishonor UCc 3-503, 3-504, 3-505

CERTIFIED AFFIDAVIT OF TRUTH
Of Non-Culpable State Of Mind
Rule 902; "Self Authenticating Evidence"

1. I, Sean David Morton, affirm I am an honorable man who has firsthand knowledge of all the facts I claim herein.
2. I am the only one in the world who can truly know what I feel or think.
3. At NO TIME, EVER, have I willingly or knowingly committed a crime, caused loss, harm or fraud.
4. I was under the supervision of Mr. Brandon Adams and his father, who was a licensed CPA to do the paperwork and all IRS filings were at their advice and prepared by them.
5. In no way did I ever file anything that I thought was unlawful or incorrect, and all IRS paperwork filed was readily available to the public at large at that time on programs like TURBO-TAX.
6. In fact my filings were vetted and audited, where the Fresno, Austin and Philadelphia IRS offices all agreed with my assessments, and even added money to the returns.
7. I have sent copious amounts of correspondence to the IRS in an attempt to explain exactly why I believe all my actions were lawful and to negotiate with them in good faith and solve this matter administratively, all of which have been ignored!
8. My intentions were expressly not to interfere with the administration of the income tax laws.
9. I have never sent a "CHECK" fraudulent or otherwise to the IRS or any "Government" agency.
10. The Plaintiff's agent testified before the honorable Judge Wilson that the IRS has never responded to my attempts to negotiate or my attempts to explain my honorable state of mind.
11. I affirm I acted and am acting in good faith.
12. I affirm I have "clean hands".
13. The Plaintiff is assuming facts not in evidence about my having a culpable state of mind and I object because it is baseless and untrue.
14. I strongly object to the lies and allegations in the indictment that I conspired and agreed to defraud the US through the IRS by deceitful means.
15. The Plaintiff has simply made up out of thin air many assumptions and has presented them as if they were factual, which is totally and utterly unacceptable to me.
16. It should be considered libel per se because the Plaintiff never said "in my opinion"; instead assumptions of my having criminal intent is presented on a

1

Rule 902 Self authenticating evidence

Regarding case #: [15-00611(A)], [CR 15 611(A)] and [15-1762M]
Certified Affidavit of Truth of Non-Culpable State Of Mind

EXHIBIT 1

public record, and in various libelous press releases, as if it is true about my being dishonorable and committing crimes knowingly and willingly.

17. I do object to all statements by Plaintiff that attempt to portray me as having criminal intent.
18. I am not in receipt of any evidence or firsthand testimony by the Plaintiff under oath and penalty of perjury that disproves my non-culpable state of mind.
19. He who affirms has the burden of proof, not he who denies. I absolutely deny having a culpable state of mind and it is true.
20. According to the DOJ, concerning the charges against me, (laws of the DOJ are attached as a notice) "the government must prove beyond a reasonable doubt that I willfully associated myself in some way with the criminal venture".
21. For the record I deny ever having willfully associated myself with any criminal venture.
22. I truly believed all my actions were lawful.
23. The burden of proof is on the Plaintiff to disprove my truth because it is the Plaintiff who is affirming the false presumption and assumption that I had intent to commit a crime, defraud, interfere with government functions and otherwise have a culpable state of mind.
24. This affidavit is self-executing in the event of anyone challenging my non-culpable state of mind, and it is considered admissible evidence under Rule 902 of my non-culpable state of mind in this matter.
25. Truth is truth! My truth claimed herein is far superior to nothing more than hypothetical conjectures, assumptions, presumptions and wild guesses about me that the Plaintiff is attempting to pursue and assert.
26. I am the only one in this whole matter with any first hand knowledge of my non-culpable intent and what I have said in this affidavit is the truth, the whole truth and nothing but the truth, so help me God.
27. Showing no bad faith in negotiations, and with clean hands, I do, and I have, dishonored the presentments and this entire proceeding. [DISHONOR FILED WITH US DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA on JULY 8, 2016. No response has been received].

NOTICE OF DISHONOR 3-503 - Because Plaintiff has not provided proof or reasons not consistent with dishonor for saying as if it were fact that I had criminal intent, and because the Plaintiff has shown bad faith in negotiations I do dishonor the presentments of this entire proceeding.

Now, I prefer the agents for "Plaintiff" simply drop the false claim based on the foregoing valid reasons that prove your claims lack of validity. I am certain you will do the right and reasonable thing and drop this false claim now that I have brought these fundamental issues to your attention. I mean did the Plaintiff's agents not go

2

Rule 902 Self authenticating evidence

Regarding case #: [15-00611(A)], [CR 15 611(A)] and [15-1762M]
Certified Affidavit of Truth of Non-Culpable State Of Mind

EXHIBIT 1

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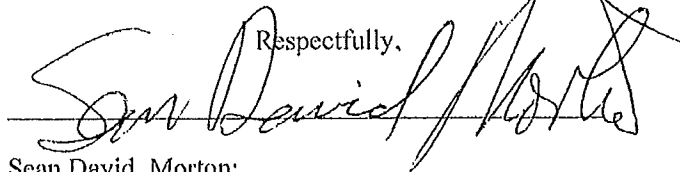
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I affirm under penalty of perjury the foregoing is true and correct according to US laws, law of the land.

I affirm under penalty of perjury the foregoing is true and correct according to US laws.

July 25, 2016

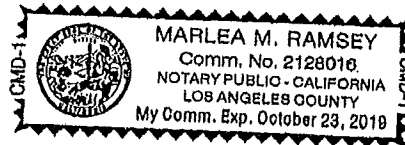
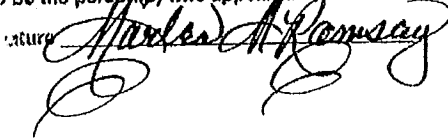
Respectfully,



Sean David, Morton;
sean :-: david, agent
UCc 1-308 without prejudice – a man –
Allowing Notary as a Compelled Benefit

State of California County of
LOS ANGELES
Subscribed and sworn to (or affirmed)
before me on this 25th day of July, 2016, by
SEAN DAVID MORTON
proved to me on the basis of satisfactory evidence
to be the person(s) who appeared before me.

Signature



3

Rule 902 Self authenticating evidence

Regarding case #: [15-00611(A)], [CR 15 611(A)] and [15-1762M]
Certified Affidavit of Truth of Non-Culpable State Of Mind

EXHIBIT 1

NOTICE:

CULPABLE STATE OF MIND MUST BE PROVED:

- Notice: He who affirms has the burden of proof, not he who denies.
- Notice: TITLE 18 of the UNITED STATES CODE was NEVER promulgated into positive law. The Congress and the Senate of the United States was not even in session on the date Title 18 was passed. [Congressional Record of the US Congress.]

DOJ NOTICE - 2476, 18 U.S.C. § 2 Is Not An Independent Offense

While aiding and abetting might commonly be thought of as an offense in itself, it is not an independent crime under 18 U.S.C. § 2. That statute provides no penalty, and only abolishes the distinction between common law notions of "principal" and "accessory." *United States v. Kegler*, 724 F.2d 190, 200 (D.C. Cir. 1983). Under it, the acts of the perpetrator become the acts of the aider and abettor and the latter can be charged with having done the acts himself. *Id.* at 200-01. An individual may be indicted as a principal for commission of a substantive crime and convicted by proof showing him to be an aider and abettor. *Id.* The indictment need not specifically charge a violation of 18 U.S.C. § 2. *Id.* An aiding and abetting instruction may be given in a case where the indictment does not allege violation of the aiding and abetting statute. *Id.* An aider and abettor of a crime may be tried and convicted even though the principal is not tried, convicted or identified. *Id.*

2475. Intent

The intent requirement for aiding and abetting has been described in different ways. One court has ruled that it must be shown the defendant intentionally became involved in the substantive crime. *United States v. Perry*, 643 F.2d 38, 46 (2d Cir.), *cert. denied*, 454 U.S. 835, 102 S.Ct. 138, 70 L.Ed.2d 115 (1981). Another court has stated the government must prove beyond a reasonable doubt the defendant wilfully associated himself in some way with the criminal venture. *United States v. Indelicato*, 611 F.2d 376, 385 (1st Cir. 1979). Another has said the charge of aiding and abetting requires proof that the defendant had a purposeful attitude. *United States v. Crow Dog*, 532 F.2d 1182, 195 (8th Cir. 1976), *cert. denied*, 430 U.S. 929, 97 S.Ct. 1547, 51 L.Ed.2d 772 (1977).

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to establish liability. *United States v. Washington*, 106 F.3d 983, 1004 n.32 (D.C. Cir.), *petition for cert. filed*, (July 29, 1997) (No. 97-5423). Similarly, the Fifth Circuit states that the essence of aiding and abetting is the community of unlawful intent between the aider and abettor and the principal. *United States v. Murray*, 988 F.2d 518, 522 (5th Cir. 1993). Although the aider and abettor need not know the means by which the crime is carried out, he must share in the requisite intent. *Id.* In order to show shared intent, the government must present evidence that the accomplice had knowledge he was furthering the crime. *United States v. Loder*, 23 F.3d 586, 591 (1st Cir. 1994). The term "shared intent," similar to "community of unlawful intent," means that the accomplice associated with a criminal venture and sought by his action to make the venture succeed. *United States v. Parekh*, 926 F.2d 402, 407 n.9 (5th Cir. 1991).

All courts seem to agree that aiding and abetting requires specific intent, also described as "purposive attitude." *United States v. Kelton*, 446 F.2d 669, 671 (8th Cir. 1971).
[updated October 1998]

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922. Elements of 18 U.S.C. § 287

Under 18 U.S.C. § 287, the government must establish that the defendant:

1. Made or presented a false, fictitious, or fraudulent claim to a **department** of the United States;
2. Knew such claim was false, fictitious or fraudulent; and
3. Did so with the specific intent to violate the law or with a consciousness that what he was doing was wrong.

United States v. Slocum, 708 F.2d 587, 596 (11th Cir. 1983)(citing *United States v. Computer Sciences Corp.*, 511 F. Supp. 1125, 1134 (E.D. Va. 1981), *rev'd on other grounds*, 689 F.2d 1181 (4th Cir. 1982)).

Under Section 287, unlike 18 U.S.C. § 1001, there may not be a requirement that the statements or claims be material; the United States Courts of Appeals are split on the issue. *United States v. Parsons*, 967 F.2d 452, 455 (10th Cir. 1992)(no materiality component); *United States v. Elkin*, 731 F.2d 1005, 1009 (2d Cir.), *cert. denied*, 469 U.S. 822 (1984)(same); *United States v. Pruitt*, 702 F.2d 152, 155 (8th Cir. 1983) (materiality component); *United States v. Snider*, 502 F.2d 645, 652 n.12 (4th Cir. 1974) (same). The conflict was noted in *United States v. White*, 27 F.3d 1531, 1535 (11th Cir. 1994), which

did not resolve the issue. Presumably, if a materiality component exists, it is a matter for jury resolution in light of *United States v. Gaudin*, 115 S.Ct. 2310 (1995).

Although it is clear from the case law that specific intent to defraud is not required for a conviction under 18 U.S.C. § 287, the United States Courts of Appeals are divided on the issue of whether willfulness is an essential element of the crime. For example, the United States Courts of Appeals for the Tenth, Fifth and Second Circuits have held that willfulness is not an essential element of Section 287, while the Ninth, Eighth and Fourth Circuits find that willfulness is an essential element of Section 287.

Presentation of a claim is more than an intention to make a claim. The claim must be presented actually and physically, and thereby made to the government. The clearest case is presentation directly to the government; however, the claim may go through an intermediary. *United States v. Murph*, 707 F.2d 895, 896 (6th Cir.) *cert. denied*, 464 U.S. 844 (1983), (court rejected the argument that defendant did not cause a violation of Section 287 because the claim was submitted by an intermediary; the defendant sold a tax return, falsely claiming a refund, to the intermediary and knew that the return would be presented to the government to claim the refund). Presenting or cashing a refund check constitutes making a false claim on the United States. *See United States v. Branker*, 395 F.2d 881 (2d Cir. 1968), *cert. denied*, 393 U.S. 1029 (1969). Although Section 287 does not define the term "claim" (*United States v. Barsanti*, 943 F.2d 428, 432-33 (4th Cir. 1991), *cert. denied*, 503 U.S. 936 (1992)), in *United States v. Cohn*, 270 U.S. 339 (1926), the United States Supreme Court wrote:

While the word "claim" may sometimes be used in the broad juridical sense of "a demand of some matter as of right made by one person upon another, to do or to forbear to do some act or thing as a matter of duty," it is clear, in the light of the entire context, that in the present statute, the provision relating to the payment or approval of a "claim upon or against" the government relates solely to the payment or approval of a claim for money or property to which a right is asserted against the government, based upon the government's own liability to the claimant. 270 U.S. at 345-36. The civil component of the False Claims Act, 31 U.S.C. § 3729(c), also defines the word "claim."

[cited in USAM 9-42.001]

18 U.S. Code § 514 - Fictitious obligations

(a) Whoever, with the intent to defraud—

(1) draws, prints, processes, produces, publishes, or otherwise makes, or attempts or causes the same, within the United States;

(2) passes, utters, presents, offers, brokers, issues, sells, or attempts or causes the same, or with like intent possesses, within the United States; or

(3) utilizes interstate or foreign commerce, including the use of the mails or wire, radio, or other electronic communication, to transmit, transport, ship, move, transfer, or attempts or causes the same, to, from, or through the United States, any false or fictitious instrument, document, or other item appearing, representing, purporting, or contriving through scheme or artifice, to be an actual security or other financial instrument issued under the authority of the United States, a foreign government, a State or other political subdivision of the United States, or an organization, shall be guilty of a class B felony.

(b) For purposes of this section, any term used in this section that is defined in section 513(c) has the same meaning given such term in section 513(c).

(c) The United States Secret Service, in addition to any other agency having such authority, shall have authority to investigate offenses under this section.

(Added Pub. L. 104-208, div. A, title I, § 101(f) [title VI, § 648(b)(1)], title II, § 2603(b)(1), Sept. 30, 1996, 110 Stat. 3009-314, 3009-367, 3009-470.)

However the Secret Service codebook states clearly that any "false or fraudulent" presentment must be dishonored and returned to sender in 30 days or less.